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5 Attorneys for Plaintiff
 CHARTIS SPECIALTY INSURANCE COMPANY

7 UNITED STATES DISTRICT COURT

8 NORTHERN DISTRICT OF CALIFORNIA

9 CHARTIS SPECIALTY INSURANCE)
 COMPANY, a New York corporation,)
 10)
 Plaintiff,)
 11)
 vs.)
 12)
 TELEGRAPH HILL PROPERTIES, INC.,)
 13 a California Corporation, and W.B. COYLE,)
 an individual,)
 14)
 Defendants.)

No. CV 11-05696 RS

[PROPOSED] ORDER AWARDING
DEFENSE COSTS TO PLAINTIFF, AS
MODIFIED BY THE COURT

Judge: Hon. Richard Seeborg
 Date: August 21, 2014
 Time: 1:30 p.m.
 Place: Courtroom 3

15)
 16 CHARTIS SPECIALTY INSURANCE)
 COMPANY, a New York corporation,)
 17)
 Plaintiff,)
 18)
 vs.)
 19)
 THP-SF, INC., a California Corporation,)
 20)
 Defendant.)

No. CV 12-02935 RS

22 Chartis Specialty Insurance Company (“Chartis Specialty”), the plaintiff in these two
 23 related cases, moves for an award of fees and costs accrued in defending the underlying insurance
 24 claims in state court and for an entry of final judgment. Defendants Telegraph Hill Properties,
 25 Inc. (“Telegraph Hill”), W.B. Coyle (“Coyle”) and THP-SF, Inc. (“THP-SF”) filed a statement of
 26 non-opposition to the motion. Pursuant to Civil Local Rule 7-1(b), the motion is suitable for
 27 disposition without oral argument, and the hearing on this motion set for August 21, 2014 is
 28 vacated. For the reasons stated below, and good cause appearing, plaintiff’s motion is hereby

1 granted.

2 Defendants were sued in the action entitled *Aaron Ferguson, Black Cod, LLC, and*
3 *McGurrin Liebert v. W.B. Coyle and Telegraph Hill Properties, Inc., et al.*, Case No. CGC-11-
4 512746, filed in the Superior Court of the State of California in and for the City of San Francisco
5 (the "*Ferguson* Action"). Plaintiff Chartis Specialty provided defendants a defense under a full
6 reservation of rights. Chartis Specialty moved for summary judgment, and this Court on April
7 16, 2013 entered an Order granting Chartis Specialty's motions for summary judgment. (*See*,
8 case no. 11-5696, ECF No. 66; case no. 12-2935, ECF No. 47.) Specifically, the Court granted
9 summary judgment to Chartis Specialty as to liability with respect to all claims for relief against
10 defendants Telegraph Hill and Coyle in case number 11-5696, and as to the first, second and
11 fourth claims for relief against defendant THP-SF in case number 12-2935. The first, second and
12 fourth claims of case number 12-2935 are substantively identical to the three claims alleged in
13 case number 11-5696. Thus, the Court granted summary judgment in Chartis Specialty's favor
14 for its claims for (1) declaratory judgment that Chartis Specialty owes no duty to defend
15 defendants in the *Ferguson* Action, and never owed any such duty; (2) declaratory judgment that
16 Chartis Specialty owes no duty to indemnify defendants in the *Ferguson* Action, and never owed
17 any such duty; and (3) "recoupment of the amounts [Chartis Specialty] has spent on defendants'
18 defense in the *Ferguson* case, subject to proof."

19 (Chartis Specialty's third claim for relief in case number 12-2935 sought the voiding of the
20 insurance contract. That claim is mooted by the Court's grant of summary judgment as to the
21 other three claims.)

22 Involuntary Chapter 7 petitions were filed against Telegraph Hill and W.B. Coyle,
23 defendants in case no. 3:11-cv-05696-RS, on November 4, 2013 (Northern District of California
24 Bankruptcy Court Case Nos. 13-32412-HLB-7 and 13-32434-HLB-7, respectively), while THP-
25 SF, INC. ("THP-SF"), defendant in case no. 3:12-cv-02935 RS is not currently in bankruptcy
26 (collectively, "defendants"). Matter 3:11-cv-05696-RS was therefore subject to the automatic
27 stay. CSIC successfully moved for relief from the automatic stay in the bankruptcy actions
28 against defendants Telegraph Hill and Coyle. On July 14, 2014, the bankruptcy court entered


1 orders lifting the stays for the purpose of establishing the amount of the award and entry of
2 judgment.

3 Chartis Specialty now moves for award of the amount it spent on defendants' defense in
4 the *Ferguson* case, offering proof of same, and for entry of final judgment. The evidence
5 presented having been fully considered, the issues having been duly heard, and a decision having
6 been duly rendered,

7 IT IS HEREBY ORDERED that Chartis Specialty is awarded, against Telegraph Hill,
8 Coyle, and THP-SF, jointly and severally, its costs of defense in the *Ferguson* Action in the sum
9 of \$116,320.81.

10 IT IS SO ORDERED.

11
12 Dated: August 4, 2014


Hon. Richard Seeborg
United States District Judge

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